ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY 23 2001
CLERK, U.S. DISTRICT COURT
By ______ Deputy

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MALACO, INC.	:	
	:	
VERSUS	:	
	:	3-00CV2648-P
JOSEPH COOPER & DOROTHY COSTANZO D/B/A GROUP HITMAKERS, INC. AND CLOSE-UP PRODUCTIONS	:	CASE NO.

RESPONDENT'S ORIGINAL ANSWER TO APPLICATION FOR DAMAGES AND PRELIMINARY AND PERMANENT INJUNCTION FOR COPYRIGHT INFRINGEMENT

TO THE HONORABLE COURT:

JOSEPH COOPER, Respondent, files this answer to the above stated cause.

PARTIES

1.

1. RESPONDENT JOSEPH COOPER, a resident of Dallas, Texas, doing business in Dallas, Texas as Group Hitmakers, Inc. and Close-Up Video Productions.

2. PLANTIFF Malaco, Inc. is a Mississippi corporation with it's principal place of business at 3023 W. Northside Drive, Jackson, Mississppi.

BACKGROUND FACTS

2.

On Jan 27, 1989, Mr. Joseph Cooper was hired by Mr. Johnnie Taylor to produce a live video of his upcoming show at The Longhorn Ballroom in Dallas, Texas. Mr. Cooper was hired and paid by Mr. Taylor and the agreement was to split all proceeds that we may

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eventually receive for the work. Mr. Taylor never told me that he needed clearance from absolutely no one. Mr. Taylor said that he would call Malaco and get them to purchase the video as soon as I brought it back and he had a chance to look at it.

3.

As soon as Mr. Taylor saw the footage, he deemed it good and immediately got on the phone and called Tommie Couch at Malaco, Inc. and told him quote: "Let's buy this video from this man (COOPER) and put the one made at THE FAIRMOUNT HOTEL on the shelf.

4.

At that time in 1989, Mr. Couch never once admonished or complained to Mr.Taylor's about hiring Cooper to produce the live video. Mr. Taylor stressed to Mr. Couch that it was great and that Malaco ought to pay Cooper for it.

5.

Mr. Couch offered Cooper only $10,000 for his raw video master in which Cooper rejected the low offer. After Cooper rejected the offer, Mr. Couch told him to think about the offer and give him a call back.

6.

On May 8, 1990, Cooper sent a demo package to Mr. Couch trying again to negotiate a shared or buy-out deal with Malaco offering them an exclusive or non-exclusive purchase. Over 20 telephone conversations ensued after sending that package to Malaco.

7.

On September 29, 1990 another package same as the first one was sent to Malaco, Inc., this time to the attention of Stewart Madison. More conversations followed.

8.

On May 31, 2000, Johnnie Taylor died and on 6-2-2000 Wolf Stephenson of MALACO, Inc. told me that he would be in Dallas to attend the funeral and asked me to put another tape into his plane #N126TK which was at Redbird Airport in Dallas.

9.

Tommy Couch and I had over 15 more conversations where he told me that he would buy the video from Cooper and that he also wanted to buy all of the other masters that Cooper had on any other artist that he shot at the Longhorn Ballroom.

10.

After telling Cooper again and again that he would buy the video, Cooper alerted to Mr. Couch that he was test-marketing and promoting the video on TV, radio and newspaper to keep Mr. Taylor's legacy hot and alive until we finally finish the deal. At that time, Tommy

Couch told cooper that that was great and sounded real good and that we would definitely do the deal.

11.

Three weeks later Tommy Couch threatened to sue Cooper because Malaco, Inc. also wanted to put out a Johnnie Taylor live at the Longhorn Ballroom video. Cooper was lied to and betrayed and was totally confused by this 360 degree turn-a-round from the previous conversations of oral agreements and intentions.

12.

To add to the confusion, Tommy Couch of Malaco.Inc. told Cooper that Malaco, Inc. had complete control of Mr. Taylor's performances but, Stewart Madison of Malaco, Inc. told Cooper that Malaco, Inc. had absolutely no control over Mr. Taylor's live performances.

PRAYER FOR RELIEF

Wherefore, Plantiff respectfully requests judgement against the plantiff granting the defendants the following relief:

(A) All claims denied and restaining, enjoining and prohibiting the plantiff, their agents, employees and other individuals or entity within their control or supervision or acting in concert with them from interfering with the manufacturing, selling, distributing and marketing or advertising the Johnnie Taylor video.

(b) All claims denied for damages and awards of any and all profits derived from the sale or other distribution of the Taylor video and legal interest thereon.

(c) All claims denied as on September 4, 2000, in a rush to appear to be legal, plantiff applied to the U.S. Copyright Office for copyright registration of all works named in this cause, which were all previously unregistered and uncopyrighted.

Joseph Cooper counter sues Malaco, Inc on the grounds of:

1. Breach Of Contract

2. Violation of the Texas Deceptive Trade Practices Act

3. Intentional infliction of emotional distress.

Respectfully Submitted

Joseph Cooper
Respondent
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